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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 319

[Docket No. APHIS-2016-0026]

RIN 0579-AE25

Importation of Fresh Mango Fruit From Vietnam Into the Continental United States

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We are proposing to amend the regulations to allow the importation of fresh mango fruit from Vietnam into the continental United States. As a condition of entry, fresh mango fruit from Vietnam would be subject to a systems approach that would include orchard requirements, irradiation treatment, and port of entry inspection. The fruit would also be required to be imported in commercial consignments and accompanied by a phytosanitary certificate issued by the national plant protection organization of Vietnam with an additional declaration stating that the consignment was inspected and found free of Macrophoma mangiferae and Xanthomonas campestris pv. mangiferaeindicae. This action would allow for the importation of fresh mango fruit from Vietnam while continuing to provide protection against the introduction of plant pests into the continental United States.

DATES: We will consider all comments that we receive on or before [Insert date 60 days after date of publication in the Federal Register].

ADDRESSES: You may submit comments by either of the following methods:

- Federal eRulemaking Portal: Go to
<http://www.regulations.gov/#!docketDetail;D=APHIS-2016-0026>.
- Postal Mail/Commercial Delivery: Send your comment to Docket No. APHIS-2016-0026, Regulatory Analysis and Development, PPD, APHIS, Station 3A-03.8, 4700 River Road Unit 118, Riverdale, MD 20737-1238.

Supporting documents and any comments we receive on this docket may be viewed at <http://www.regulations.gov/#!docketDetail;D=APHIS-2016-0026> or in our reading room, which is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 799-7039 before coming.

FOR FURTHER INFORMATION CONTACT: Mr. Tony Román, Senior Regulatory Policy Specialist, Regulatory Coordination and Compliance, PPQ, APHIS, 4700 River Road Unit 133, Riverdale, MD 20737-1231; (301) 851-2242.

SUPPLEMENTARY INFORMATION:

Background

Under the regulations in “Subpart—Fruits and Vegetables” (7 CFR 319.56-1 through 319.56-75, referred to below as the regulations or the fruits and vegetables regulations), the Animal and Plant Health Inspection Service (APHIS) of the United States Department of Agriculture prohibits or restricts the importation of fruits and vegetables into the United States from certain parts of the world to prevent plant pests from being introduced into and spread within the United States.

APHIS received a request from the national plant protection organization (NPPO) of Vietnam to amend the regulations to allow the importation of commercially produced fresh mango (Mangifera indica L.) fruit from Vietnam into the continental United States. In evaluating Vietnam's request, we prepared a pest risk assessment (PRA) and a risk management document (RMD). Copies of the PRA and the RMD may be obtained from the person listed under FOR FURTHER INFORMATION CONTACT or viewed on the Regulations.gov Web site (see ADDRESSES above for instructions for accessing Regulations.gov).

The PRA, titled "Importation of Fresh Mango Fruit, Mangifera indica L., from Vietnam into the Continental United States" (September 2012), analyzes the potential pest risk associated with the importation of fresh mango fruit into the continental United States from Vietnam.

The PRA identifies 18 quarantine pests that could be introduced into the United States in consignments of fresh mango fruit from Vietnam. A quarantine pest is defined in § 319.56-2 as "a pest of potential economic importance to the area endangered thereby and not yet present there, or present but not widely distributed and being officially controlled." The pests listed in the PRA are:

- Carambola fruit fly, Bactrocera carambolae Drew & Hancock
- Guava fruit fly, Bactrocera correcta (Bezzi)
- Melon fly, Bactrocera cucurbitae Coquillett
- Oriental fruit fly, Bactrocera dorsalis Hendel
- Pumpkin fruit fly, Bactrocera tau Walker
- Peach fruit fly, Bactrocera zonata (Saunders)
- Yellow peach moth, Conogethes punctiferalis
- Mango seed borer, Deanolis albizonalis

- Old World bollworm, Helicoverpa armigera
- Pink hibiscus mealybug, Maconellicoccus hirsutus
- The fungus Macrophoma mangiferae
- Spherical mealybug, Nipaecoccus viridis
- Coffee mealybug, Planococcus lilacinus
- Citriculus mealybug, Pseudococcus cryptus
- Fruit tree mealybug, Rastrococcus invadens
- Chili thrips, Scirtothrips dorsalis
- Mango pulp weevil, Sternuchus frigidus
- Mango black spot, Xanthomonas campestris pv. mangiferaeindicae

Based on the findings of the PRA, APHIS has determined that measures beyond standard port-of-entry inspection are needed to mitigate the risks posed by these pests. These measures are identified in the RMD and are used as the basis for the requirements included in this proposed rule. We are therefore proposing to allow the importation of fresh mango fruit from Vietnam into the continental United States if it is produced under a systems approach, which is described below. Requirements of the systems approach would be added to the regulations as a new § 319.56-76.

Commercial Consignments

Only commercial consignments of fresh mango fruit from Vietnam would be allowed to be imported into the continental United States. Produce grown commercially is less likely to be infested with plant pests than noncommercial consignments. Noncommercial consignments are more prone to infestations because the commodity is often ripe to overripe, could be of a variety with unknown susceptibility to pests, and is often grown with little or no pest control.

Commercial consignments, as defined in § 319.56-2, are consignments that an inspector identifies as having been imported for sale and distribution. Such identification is based on a variety of indicators, including, but not limited to: Quantity of produce, type of packing, identification of grower or packinghouse on the packaging, and documents consigning the fruits or vegetables to a wholesaler or retailer.

Treatments

Under this proposed rule, fresh mango fruit from Vietnam would be required to be treated with a minimum absorbed irradiation dose of 400 gray in accordance with § 305.9 of the phytosanitary treatment regulations in 7 CFR part 305. This is the established generic dose for all insect pests except pupae and adults of the order Lepidoptera. While it is true that three of the pests associated with fresh mango fruit from Vietnam are Lepidopteran (yellow peach moth, mango seed borer, and Old World bollworm), irradiation is unique among quarantine treatments insofar as sublethal doses are effective in providing phytosanitary protection against Lepidopteran pests in the following ways:

- While the treatment is not lethal to pupae and adults of the order Lepidoptera it is lethal to larvae. Larvae are of greatest phytosanitary concern given that they are internal feeders and may therefore be overlooked upon inspection;
- Irradiation prevents normal adult emergence from the pupal stage;
- Irradiation also causes sterility in pupae and emerged adults, preventing further larval reproduction.

Shipments of fresh mango fruit from Vietnam would also have to meet all other relevant requirements in 7 CFR part 305, including monitoring of treatment by APHIS inspectors.

In order to mitigate the risks posed by Macrophoma mangiferae, we are proposing three options: (1) The mangoes be treated with a broad-spectrum post-harvest fungicidal dip, (2) the orchard of origin be inspected at a time prior to the beginning of harvest and be found free of Macrophoma mangiferae, or (3) fruit must originate from an orchard that was treated with a broad-spectrum fungicide during the growing season.

Symptoms of this plant pathogen can be easily seen and detected in the field on mango leaves and fruit during pre-harvest inspection. Post-harvest diseases do not occur without the presence of symptoms on leaves in the field. Orchard application of broad spectrum fungicide sprays protects fruit from infection by aerial spores produced on leaves or stems.

Phytosanitary Certificate

Each consignment of fruit would have to be accompanied by a phytosanitary certificate issued by the NPPO of Vietnam that contains an additional declaration stating that the fruit in the consignment was inspected and found free of Macrophoma mangiferae and Xanthomonas campestris pv. mangiferaeindicae.

Inspection would mitigate the risks posed by Xanthomonas campestris pv. mangiferaeindicae since symptoms of Xanthomonas campestris pv. mangiferaeindicae are easily discernible to the naked eye. The bacterium is not generally considered a post-harvest disease. Infection occurs most often through wounds which would cause the fruit to be culled during harvest or processing.

Requiring a phytosanitary certificate would ensure that the NPPO of Vietnam has inspected the fruit and certified that the fruit meets our requirements for export to the continental United States.

Port of Entry Inspection

Shipments of fresh mango fruit from Vietnam would be subject to inspection at the port of entry. This will provide an additional layer of phytosanitary protection in order to prevent the dissemination of plant pests into the continental United States.

Executive Order 12866 and Regulatory Flexibility Act

This proposed rule has been determined to be not significant for the purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget.

In accordance with the Regulatory Flexibility Act, we have analyzed the potential economic effects of this action on small entities.

This proposed rule is in response to a request from Vietnam to be allowed to export fresh mango fruit to the continental United States. The annual quantity that Vietnam expects to export to the United States, 3,000 metric tons, represents less than 1 percent of U.S. fresh mango fruit imports, which averaged 396,070 metric tons per year, 2012 to 2015, primarily from Mexico, Peru, Ecuador, Brazil, and Guatemala. While mangoes are grown in Florida and Hawaii, and in smaller quantities in California and Texas, U.S. annual production totals only about 3,000 metric tons.

Most if not all U.S. mango farms and wholesalers are small entities. However, given the small quantity expected to be imported from Vietnam relative to current imports, the proposed rule would not have a significant impact on U.S. mango producers. While Vietnam's mango season runs from February to September, encompassing that of the United States (Florida's season is May to September), U.S. importers may benefit marginally in having Vietnam as another source of fresh mango fruit that would help meet demand.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action would not have a significant economic impact on a substantial number of small entities.

Executive Order 12988

This proposed rule would allow fresh mango fruit to be imported into the continental United States from Vietnam under a systems approach. If this proposed rule is adopted, State and local laws and regulations regarding fresh mango fruit imported under this rule would be preempted while the fruit is in foreign commerce. Fresh fruits are generally imported for immediate distribution and sale to the consuming public and would remain in foreign commerce until sold to the ultimate consumer. The question of when foreign commerce ceases in other cases must be addressed on a case-by-case basis. If this proposed rule is adopted, no retroactive effect will be given to this rule, and this rule will not require administrative proceedings before parties may file suit in court challenging this rule.

Paperwork Reduction Act

In accordance with section 3507(d) of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.), the information collection or recordkeeping requirements included in this proposed rule have been submitted for approval to the Office of Management and Budget (OMB). Please send written comments to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for APHIS, Washington, DC 20503. Please state that your comments refer to Docket No. APHIS-2016-0026. Please send a copy of your comments to: (1) APHIS, using one of the methods described under ADDRESSES at the beginning of this document, and (2) Clearance Officer, OCIO, USDA, room 404-W, 14th Street and Independence Avenue SW., Washington, DC 20250.

This action would allow for the importation of fresh mango fruit from Vietnam while continuing to provide protection against the introduction of plant pests into the continental United States.

Implementing this rule will require irradiation facility requirements, orchard inspections, phytosanitary treatments, port of entry inspections, and phytosanitary certificates.

We are soliciting comments from the public (as well as affected agencies) concerning our proposed information collection and recordkeeping requirements. These comments will help us:

(1) Evaluate whether the proposed information collection is necessary for the proper performance of our agency's functions, including whether the information will have practical utility;

(2) Evaluate the accuracy of our estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the information collection on those who are to respond (such as through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology; e.g., permitting electronic submission of responses).

Estimate of burden: Public reporting burden for this collection of information is estimated to average 0.02183 hours per response.

Respondents: Foreign businesses and the NPPO of Vietnam.

Estimated annual number of respondents: 2.

Estimated annual number of responses per respondent: 6,617.

Estimated annual number of responses: 13,233.

Estimated total annual burden on respondents: 289 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

Copies of this information collection can be obtained from Ms. Kimberly Hardy, APHIS' Information Collection Coordinator, at (301) 851-2727.

E-Government Act Compliance

The Animal and Plant Health Inspection Service is committed to compliance with the E-Government Act to promote the use of the Internet and other information technologies, to provide increased opportunities for citizen access to Government information and services, and for other purposes. For information pertinent to E-Government Act compliance related to this proposed rule, please contact Ms. Kimberly Hardy, APHIS' Information Collection Coordinator, at (301) 851-2727.

List of Subjects in 7 CFR Part 319

Coffee, Cotton, Fruits, Imports, Logs, Nursery stock, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Rice, Vegetables.

Accordingly, we propose to amend 7 CFR part 319 as follows:

PART 319—FOREIGN QUARANTINE NOTICES

1. The authority citation for part 319 continues to read as follows:

Authority: 7 U.S.C. 450, 7701-7772, and 7781-7786; 21 U.S.C. 136 and 136a; 7 CFR 2.22, 2.80, and 371.3.

2. Add § 319.56-76 to read as follows:

§ 319.56-76 Fresh Mango from Vietnam.

Fresh mango (Mangifera indica L.) fruit may be imported into the continental United States under the following conditions:

- (a) The fresh mango fruit may be imported in commercial consignments only.
- (b) The fresh mango fruit must be treated for plant pests of the class Insecta, except pupae and adults of the order Lepidoptera, with irradiation in accordance with part 305 of this chapter.
- (c) The risks presented by Macrophoma mangiferae must be addressed in one of the following ways:
 - (1) The mangoes are treated with a broad-spectrum post-harvest fungicidal dip; or
 - (2) The orchard of origin is inspected prior to the beginning of harvest and found free of Macrophoma mangiferae; or
 - (3) Fruit must originate from an orchard that was treated with a broad-spectrum fungicide during the growing season.
- (d) Each consignment of fresh mango fruit must be accompanied by a phytosanitary certificate issued by the NPPO of Vietnam that contains an additional declaration stating that the fruit in the consignment was inspected and found free of Macrophoma mangiferae and

Xanthomonas campestris pv. mangiferaeindicae and has been produced in accordance with the requirements of the systems approach in 7 CFR 319.56-76.

(e) The fruit is subject to inspection at the port of entry for all quarantine pests of concern.

Done in Washington, DC, this 29th day of July 2016.

Kevin Shea,

Administrator, Animal and Plant Health Inspection Service.

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